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Date: 10 August 2015

INDIVIDUAL CONSULTANT PROCUREMENT NOTICE

for individual consultants and individual consultants assigned by consulting firms/institutions

Country:	Viet Nam
Description of the assignment:	Senior International Expert to conduct a Comparative Study for Law on Anti-discrimination
Project name:	Support to Strengthen LGBT CSOs in Vietnam (00076346)
Period of assignment/services	35 working days from September 2015 to January 2016

1. Submissions should be sent by email to: huynh.huong.thanh@undp.org no later than: **25 August 2015 (Hanoi time)**.

With subject line: Senior International Expert - Comparative Study for Law on Anti-discrimination

Bidders are requested to send notification by email (without attachment) to: procurement.vn@undp.org informing that they have submitted proposals. UNDP will not be responsible for the missing of proposal if the bidder does not send notification email to the above address.

Submission received after that date or submission not in conformity with the requirements specified this document will not be considered.

Note:

- Any individual employed by a company or institution who would like to submit an offer in response to this Procurement Notice must do so in their individual capacity, even if they expect their employers to sign a contract with UNDP.
 - Maximum size per email is **7 MB**.
 - Any request for clarification must be sent in writing, or by standard electronic communication to the address or e-mail indicated above. Procurement Unit – UNDP Viet Nam will respond in writing or by standard electronic mail and will send written copies of the response, including an explanation of the query without identifying the source of inquiry, to all consultants.
2. Please find attached the relevant documents:

- [Terms of Reference \(TOR\)](#)..... (Annex I)
- [Individual Contract & General Conditions](#)..... (Annex II)
- [Reimbursable Loan Agreement](#) (for a consultant assigned by a firm)..... (Annex III)
- [Guidelines for CV preparation](#)..... (Annex IV)
- [Format of financial proposal](#)..... (Annex V)

3. Interested individual consultants must submit the following documents/information **(in English, PDF Format)** to demonstrate their qualifications:

a. Technical component:

- Most updated CV with information about three referees for reference check;
- An abstract of 350 words summarising initial concrete points (including names of countries to be suggested for lessons learnt for Viet Nam) to be made in the research study under this TOR;
- Tentative work-plan for this research; and,
- At least one relevant publication in English.

b. Financial proposal (with your signature):

- The financial proposal shall specify a total lump sum amount in **US Dollar** including consultancy fees and all associated costs i.e. airfares, travel cost, meal, accommodation, tax, insurance etc. – see format of financial offer in Annex VII.
- Please note that the cost of preparing a proposal and of negotiating a contract, including any related travel, is not reimbursable as a direct cost of the assignment.
- If quoted in other currency, prices shall be converted to US Dollar at UN Exchange Rate at the submission deadline.

4. Evaluation:

The technical component will be evaluated using the following criteria:

International Consultant's experiences/qualification related to the services		
	Criteria	Maximum Points
1	Advanced degree in comparative legal studies, interdisciplinary legal studies, and/or political science studies, human rights law	200
2	At least 5 years experience conducting comparative study in the area of anti-discrimination law	400
3	Preferably having knowledge and/or experiences on Vietnamese legal studies	100
4	A strong international publications record; Proven ability to write clear, jargon-free English.	300
	TOTAL	1000

A two-stage procedure is utilized in evaluating the submissions, with evaluation of the technical components being completed prior to any price proposals being opened and compared. The price proposal will be opened only for submissions that passed the minimum technical score of 70% of the obtainable score of 1000 points in the evaluation of the technical component.

The technical component is evaluated on the basis of its responsiveness to the Term of Reference (TOR).

Maximum 1000 points will be given to the lowest offer and the other financial proposals will receive the points inversely proportional to their financial offers. i.e. $S_f = 1000 \times F_m / F$, in which S_f is the financial score, F_m is the lowest price and F the price of the submission under consideration.

The weight of technical points is 70% and financial points is 30%.

Submission obtaining the highest weighted points (technical points + financial points) will be selected.

Interview with the candidates may be held if deemed necessary.

5. Contract

“Lump-sum” Individual Contract will be applied for freelance consultant (Annex II)

“Lump-sum” RLA will be applied for consultant assigned by firm/institution/organization (Annex III)

Documents required before contract signing:

- Personal History
- International consultant whose work involves travel is required to complete the course on Basic Security in the Field and submit certificate to UNDP before contract issuance.
Note: The Basic Security in the Field Certificate can be obtained from website: <https://training.dss.un.org/consultants>. The training course takes around 3-4 hours to complete. The certificate is valid for 3 years.
- Full medical examination and Statement of Fitness to work for consultants from and above 62 years of age and involve travel. (This is not a requirement for RLA contracts).
- Release letter in case the selected consultant is government official.

6. Payment

UNDP shall effect payments to the consultant (by bank transfer to the consultant’s bank account provided in the vendor form (Annex V) upon acceptance by UNDP of the deliverables specified the TOR.

Sequence	Percentage of installments	Indicative Dates for Installments
1 st payment	20% of the contract value upon acceptance of the research outline which will be submitted after the 1 st mission to Viet Nam	September 2015
2 nd payment	40% of the contract value upon receipt of the draft research report in line with the requirements set forth in Section 3.2 and 3.3	November 2015
Final payment	40% of the contract value upon acceptance of the final research report	January 2016

If two currencies exist, UNDP exchange rate will be applied at the day UNDP instructs the bank to effect the payment.

7. Your proposals are received on the basis that you fully understand and accept these terms and conditions.

8. Notification of selection result: UNDP will contact only successful bidder for contracting.

TERMS OF REFERENCE (TOR)

SERVICE	Senior International Expert to conduct a Comparative Study for Law on Anti-discrimination
DUTY STATION	Home-base with two missions to Ha Noi, Viet Nam
EXPECTED DURATION	From September 2015 to January 2016 for a total of 35 consultancy days
SUPERVISION	Report to Head of Governance and Participation Team, UNDP Viet Nam
PROJECT	Support to Strengthen LGBT CSOs in Vietnam (00076346)

1. General background

The 2013 amended Constitution enshrines, in article 16¹, the principle of equality and non-discrimination in every aspect of citizens' political, civic, economic, cultural and social life. To ensure the implementation, it requires a comprehensive review of the existing legal, policy and institutional frameworks to remove discriminatory provisions and combat *de facto* discrimination. This is one way to ensure that direct and indirect discrimination on the grounds of racial, ethnicity, religion or belief, disability, age, gender identity and sexual orientation are identified and resolved by legal remedies.

Despite legal guarantees of equality and non-discrimination, in reality, customary norms and traditions often govern inheritance, succession and marital property relations, and familial property division, disadvantaging women, and hindering them from exercising their rights. There are also concerns of discrimination on ethnic and religious grounds.² In addition, the notion of racial discrimination of all kinds has not been fully incorporated in domestic law, particularly in light of the absence of a definition of racial discrimination in current laws.³

In Viet Nam, negative laws or a lack of laws contribute to stigma and discrimination against gender and sexual diversity in a broad range of areas from sexual behavior to same-sex marriage and recognition of sex changes.⁴ In practice, surveys report that stigma and discrimination are common at the workplace, physical violence, sexual harassment and verbal abuse occur in educational environments, and discriminatory attitudes and practices occur in the medical establishment towards many people of diverse gender and sexuality, including transgender people and men who have sex with men.

In general, measures to address these issues can be pushed forward from various grounds, legislation, legal proceedings and actions of the society, social organizations and individuals against the lack of an equality and non-discrimination laws as well as against discriminatory acts and behaviors at work, in education, at public service facilities or any other social and private engagements.

To ensure Viet Nam laws hold up to the new Constitutional principle of equality and non-discrimination, the existing legal system should be reviewed from a human rights based and anti-discrimination approach. At the same time, international experiences in designing laws to prevent discrimination are not least important in order to provide Viet Nam with options and suggestions for practical and suitable approach to avoid any

¹ 2013 amended Constitution of Viet Nam, Article 16: (1) All citizens are equal before the law. (2) No one shall be discriminated in his or her political, civic, economic, cultural, and social life.

² The Special Rapporteur on freedom of religion or belief reported on a recent visit "that the conditions under which individuals or groups can practise their religion or belief are unpredictable and often depend on good will of Government agencies, not least the local authorities". Press Statement on the visit to the Socialist Republic of Viet Nam by the Special Rapporteur on freedom of religion or belief. Hanoi, Viet Nam 31 July 2014.

³ CERD- Conclusion of Committee on the Elimination of Racial Discrimination Eightieth session -13 February – 9 March 2012.

⁴ Being LGBT in Asia: Vietnam country report, USAID-UNDP, 2014.

foreseeable shortcomings taking place in the early stages of implementation and to ensure the law will at least do no harm to any invisible populations.

According to this TOR, a comparative study on anti-discrimination law will be commissioned by UNDP within the framework of project “Support to Strengthen LGBT CSOs in Viet Nam”. UNDP Viet Nam is calling for technical and financial proposals from international senior experts/researchers who are interested in conducting the study in accordance with objectives, expected outputs and other requirements as specified herewith.

2. Objectives

- 2.1 The research will adopt a comparative legal analysis approach to examine the legislative developments, policy developments and case laws of three to four selected countries that best provide the experience of developing anti-discrimination law to the Vietnamese context; approaches that the studied countries have adopted, institutional and legal mechanisms the countries (within its legal, cultural, institutional context) have created in fighting against discrimination on the ground.
- 2.2 Drawing on the overall country analysis in 2.1.1 above, the research will identify the most appropriate or effective model to design laws and build capacity of justice institutions and civil society in the studied countries and recommend policy options to Viet Nam, considering the degree to which such approach(s) and model(s) can be successfully implemented in the development context of Viet Nam.

3. SCOPE OF WORK AND DELIVERABLES

- 3.1 The researcher will work closely with two other Vietnamese experts who will be undertaking a review of discrimination cases in Viet Nam in a team of three, to share a joint research and analytical framework for both studies. This approach is to ensure the synergies between the two studies for a more comprehensive result, particularly in the applicability of the recommendations for development of the anti-discrimination law in Viet Nam.
- 3.2 The research will undertake a comparative analysis of methods. The countries to be studied should be selected to give information on different models of anti-discrimination law, different legal systems such as common law (US, Australia, UK) and civil law (the Netherlands, Germany, EU), transitional justice system (Georgia, Mongolia), upon consultation with UNDP, on the basis that their experiences can be useful for Viet Nam.
- 3.3 A research report is expectedly less than 50 paged research paper which addresses a common set of questions and presented in a coherent manner as the Structure of the Country Report suggested in 3.4 below in order to facilitate the analysis of common themes and areas of difference, trends, strengths and weaknesses to provide useful recommendations for Viet Nam.

The country research report will include relevant annexes such as extracts from the country’s Constitutions and laws, collected survey data and any other relevant information provided under this assignment in relation to the subject research.

- 3.4 The set of questions to be addressed may include but not limited to the followings:

- What are the definitions of discrimination--direct and indirect, and the conception of equality? Areas where discrimination is prohibited? Who is protected and when are they protected?
- What is the existing model of anti-discrimination laws in the studied countries? What are the positive rights elements and their limits?
- What are the existing institution and mechanism to resolve complaints of discriminations and promotes human rights? Analysis of the legal and regulatory framework, key elements and main difficulties relating to proof of direct and indirect discrimination within the given framework, other limitations?
- What happens when protection from discrimination clashes with other rights or values?
- What legal remedies are available, and who may seek them?

4. Methodology

The expert will work under supervision of the UNDP Programme Officer for Rule of Law and Access to Justice and in collaboration with the Vietnamese experts undertaking the country review. To the possible extent, the analysis will have to be based on statistical data and documented material, including the compilation of recently published studies and reports. The research methodology will include the revision, analysis and synthesis of data, statistics, documents and publications on the theme.

The expert will have to identify the sources of all kind of information, and cite them properly in the research. S/he is not necessarily expected to generate primary information, but to develop and present in-depth analysis based on compilation and processing of primary and secondary sources.

The research paper is neither an essay of qualified opinions nor a news article. It needs to be grounded on evidence and documented data/information. UNDP will support the research process when deems necessary, however, the ultimate responsibility on access and accuracy of data relies on the expert.

The research process is participatory and consultative, including meetings with Vietnamese policy makers, judges, researchers and civil society representatives during the mission to Viet Nam. The expert will be expected to come on two (2) missions to Viet Nam prior to conducting the home-based research and after submission of the first draft of the report to discuss with Vietnamese researchers, National Assembly's deputies, judges, civil society representatives and other key stakeholders (i) to maximize the synergies between the comparative country research and the handling discriminatory laws and practice in Viet Nam; and (ii) to validate research's primary findings and recommendations for Viet Nam.

UNDP will arrange for translation into Vietnamese and publication in Vietnamese and English. The paper will be made publicly available through the normal distribution channels, and distributed to national and international agencies. UNDP also actively encourages the researcher to publish the paper in other outlets, including scholarly journals and institutional websites as long as the researcher fully observes UNDP's general terms and conditions in terms of title rights, copyrights, patents and other proprietary rights to be specified in "General Conditions of Contract for the Services of Individual Contractors".

5. Qualifications and requirements

The International Senior Expert should meet the following minimum requirements:

- Advanced degree in comparative legal studies, interdisciplinary legal studies, and/or political science studies, human rights law;
- At least 5 years experience conducting comparative study in the area of anti-discrimination law;
- Preferably having knowledge and/or experiences on Vietnamese laws;
- A strong international publications record;
- Proven ability to write in clear, jargon-free Standard English.

It is required that interested international senior experts include in their application dossiers:

1. a most updated CV with information about three referees for reference check;
2. an abstract of 350 words summarising initial concrete points (including names of countries to be suggested for lessons learnt for Viet Nam) to be made in the research study under this TOR;
3. a tentative work-plan for this research; and,
4. at least one relevant publication in English.

6. Timing, duration and location

The tentative timeframe for this research will be estimated 35 working days including two missions to Ha Noi, comprising of three concrete phases:

- Phase 1: September 2015 – one mission of two working days to Ha Noi to consult stakeholders for development of the research framework.
- Phase 2: September 2015 – November 2015 – home-based research.
- Phase 3: November 2015 - February 2016 –one business trip (about 3 working days) to Ha Noi in late November – early December for a consultation workshop and meetings with experts in Viet Nam. The research report will then be finalized and submitted to UNDP no later than 31 January 2016.

Note: This is the estimated number of days only and it is up to the consultant to allocate the number of days required to deliver the deliverables in this TOR as per the timeframes and reflect that in the financial offer.

The interested contractor shall suggest a tentative work-plan for this study to be done for further discussion with UNDP upon being selected, as indicated in Section 3.

7. Contract payment

UNDP Viet Nam shall effect payments to the successful Contractor upon UNDP's satisfaction with expected deliverables set forth in Section 3 above and after acceptance by UNDP of the request for payment submitted by the Contractor to the address specified in the sample contract.

Milestones for deliverables and payments for the two phases shall be as follows:

Sequence	Percentage of installments	Indicative Dates for Installments
1 st payment	20% of the contract value upon acceptance of the research outline which will be submitted after the 1 st mission to Viet Nam	September 2015
2 nd payment	40% of the contract value upon receipt of the draft research report in line with the requirements set forth in Section 3.2 and 3.3	November 2015
Final payment	40% of the contract value upon acceptance of the final research report	January 2016

8. Provision of monitoring and progress controls

- Upon contract signing, the contractor shall work closely with UNDP officers in charge to discuss and agree on the task requirements, working methodology;
- UNDP and the relevant stakeholders review and comment on the contractor's required outputs/reports in the TOR;
- The contractor reviews the comments and submits the revised outputs/ reports for further review and comments;
- UNDP shall monitor every stage of deployment of the project and shall evaluate the deliverables of each phase as described in Section 3 and 6 of this TOR.
- UNDP shall disburse installments to the contractor against the milestones for each phase of the project. Each payment shall be made upon UNDP's satisfaction with the deliverables. The final instalment shall be made to contractor only when UNDP is fully satisfied with the final deliverable of this assignment.

Evaluation Criteria

Evaluation Criteria		Maximum Points
1	Advanced degree in comparative legal studies, interdisciplinary legal studies, and/or political science studies, human rights law	200
2	At least 5 years experience conducting comparative study in the area of anti-discrimination law	400
3	Preferably having knowledge and/or experiences on Vietnamese legal studies	100
4	A strong international publications record; Proven ability to write clear, jargon-free English.	300
Total		1,000

Annex VI

GUIDELINES FOR PREPARING CV

WE REQUEST THAT YOU USE THE FOLLOWING CHECKLIST WHEN PREPARING YOUR CV:

Limit the CV to 3 or 4 pages

NAME (First, Middle Initial, Family Name)

Address:

City, Region/State, Province, Postal Code

Country:

Telephone, Facsimile and other numbers

Internet Address:

Sex, Date of Birth, Nationality, Other Citizenship, Marital Status

Company associated with (if applicable, include company name, contact person and phone number)

SUMMARY OF EXPERTISE

Field(s) of expertise (be as specific as possible)

Particular development competencies-thematic (e.g. Women in Development, NGOs, Privatization, Sustainable Development) or technical (e.g. project design/evaluation)

Credentials/education/training, relevant to the expertise

LANGUAGES

Mother Tongue:

Indicate written and verbal proficiency of your English:

SUMMARY OF RELEVANT WORK EXPERIENCE

Provide an overview of work history in reverse chronological order. Provide dates, your function/title, the area of work and the major accomplishments include honorarium/salary.

References (name and contact email address) must be provided for each assignment undertaken by the consultant that UNDP may contact.

UN SYSTEM EXPERIENCE

If applicable, provide details of work done for the UN System including WB. Provide names and email address of UN staff who were your main contacts. Include honorarium/salary.

UNIVERSITY DEGREES

List the degree(s) and major area of study. Indicate the date (in reverse chronological order) and the name of the institution where the degree was obtained.

PUBLICATIONS

Provide total number of Publications and list the titles of 5 major publications (if any)

MISCELLANEOUS

Indicate the minimum and maximum time you would be available for consultancies and any other factors, including impediments or restrictions that should be taken into account in connection with your work with this assignment.

Please ensure the following statement is included in the resume and that it is signed and dated:

I CERTIFY THAT ALL INFORMATION STATED IN THIS RESUME IS TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE. I AUTHORIZE UNDP/UNOPS OR ITS AGENT TO VERIFY THE INFORMATION PROVIDED IN THIS RESUME.

(Signature)

Annex VII

FINANCIAL OFFER

Having examined the Solicitation Documents, I, the undersigned, offer to provide all the services in the TOR for the sum of US\$

This is a lump sum offer covering all associated costs for the required service (fee, meal, accommodation, travel, taxes etc).

Note: The number of work-days in the TOR is estimated only. The bidder should make his/her own estimate of the time taken to complete the assignment in line with this TOR and his/her technical proposal, and use this estimate as the basis for financial proposal.

Cost breakdown:

No.	Description	Number of days	Rate (US\$)	Total
1	Remuneration			
1.1	Services in Home office			
1.2	Services in field			
2	Out of pocket expenses			
2.1	Travel			
2.2	Per diem			
2.3	Full medical examination and Statement of Fitness to work for consultants from and above 62 years of age and involve travel – (required before issuing contract). *			
2.5	Others (pls. specify).....			
	TOTAL			

** Individual Consultants/Contractors who are over 62 years of age with assignments that require travel and are required, at their own cost, to undergo a full medical examination including x-rays and obtaining medical clearance from **an UN-approved doctor** prior to taking up their assignment.*

I undertake, if my proposal is accepted, to commence and complete delivery of all services specified in the contract within the time frame stipulated.

I agree to abide by this proposal for a period of 120 days from the submission deadline of the proposals.

Dated this day /month of year

Signature